

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-MV/KK

RIO CHAMA STREAM SYSTEM

Section 3: Canjilon Creek

Subfile No. CHCJ-004-0011

UNOPPOSED MOTION TO VACATE THAT PORTION OF DEFAULT JUDGMENT
RELATED TO SUBFILE NO. CHCJ-004-0011
AND TO ENTER NEW CONSENT ORDERS UNDER SUBFILE NOS.
CHCJ-004-0011A, CHCJ-004-0011B, AND CHCJ-004-0011C

Plaintiff State of New Mexico, *ex rel.* State Engineer (“State”), hereby requests that this Court vacate that portion of a Default Judgment entered by the Court related to Subfile No. CHCJ-004-0011 (Doc. 6835, filed 08/29/02). Additionally, the State requests that this Court enter new Consent Orders under Subfile Nos. CHCJ-004-0011A, CHCJ-004-0011B, and CHCJ-004-0011C. The new Consent Orders are attached hereto as exhibits 1-3. The State offers the following grounds for the motion:

1. In August of 2002, this Court entered an *Order Granting Default Judgment* (“Default Order,” Doc. 6835, filed 08/29/02) involving a number of subfiles in the Canjilon Creek Subsection of Section 3 of the Rio Chama Stream System (“Canjilon Subsection”). One of the subfiles included in the Default Order was Subfile No. CHCJ-004-0011. Under the Default Order, a water right was recognized under the names of Patricia Alarid and Tommy Alarid (“the

Alarids”) to irrigate 1.4 acres of land from the El Llano Ditch under Subfile No. CHCJ-004-0011.

2. Some time after the entry of the Default Order, the State discovered that the Alarids never owned all of the 1.4 acres of irrigated acreage described in the Default Order. In fact, only 0.8 acres of the irrigated acreage was owned by the Alarids. The remaining 0.6 acres of irrigated lands was owned by a neighbor who was not originally joined to these adjudication proceedings.

3. The 0.8 acres of irrigated lands previously owned by the Alarids are currently owned by Samantha Buglovsky, Scott Buglovsky, and Toby J. Leyba. The remaining 0.6 acres of irrigated lands described in the Default Order for Subfile No. CHCJ-004-0011 are owned by Jessica Martinez and Trino Martinez.

4. In October of 2018, the State moved this Court to enter an order substituting Samantha Buglovsky, Scott Buglovsky, Toby J. Leyba, Jessica Martinez, and Trino Martinez for the Alarids (Doc. 11385, filed 10/01/18). That motion was granted, and this Court entered its *Order Substituting Parties in Subfile CHCJ-004-0011* (Doc. 11393) on October 31, 2018.

5. Accordingly, the State has now created three new subfiles to reflect the current ownership of the lands adjudicated in the Default Order under Subfile No. CHCJ-004-0011. The three new subfile numbers are CHCJ-004-0011A, CHCJ-004-0011B, and CHCJ-004-0011C. Consent Orders under these new subfile numbers have been signed and approved by the current owners, and are attached hereto as Exhibits 1, 2, and 3.

6. Additionally, the State has come to an agreement with Samantha Buglovsky, Scott Buglovsky, Toby J. Leyba, Jessica Martinez, and Trino Martinez as to the priority dates and irrigation water requirements for their water rights in the Canjilon Subsection. Those figures are included in the Consent Orders signed by the current owners, and have also been memorialized in

separate stipulations signed by Samantha Buglovsky, Scott Buglovsky, Toby J. Leyba, Jessica Martinez, and Trino Martinez, and filed with this Court concurrently with this motion.

WHEREFORE the State now requests that this Court vacate that portion of the Default Order that details water rights under Subfile No. CHCJ-004-0011, and enter the attached Consent Orders under Subfile Nos. CHCJ-004-0011A, CHCJ-004-0011B, and CHCJ-004-0011C. Additionally, the State requests that the Clerk of Court serve a copy of the order on Samantha Buglovsky, Scott Buglovsky, and Toby J. Leyba at P.O. Box 301, Chama, NM 87520; and on Jessica Martinez and Trino Martinez at 24A Sunset Trail W., Santa Fe, NM 87508, pursuant to this Court's *Order* (Doc. 10891, filed 02/04/13).

Respectfully submitted,

/s/ Felicity Strachan

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Certificate of Service

I certify that on February 12, 2019, I filed the foregoing electronically through the CM/ECF system which caused the parties on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail.

/s/ Felicity Strachan

Felicity Strachan